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**HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION NO:451 of 2003

DATED: 08-12-2006

Between:

V.Vijaya Bunni

..... PETITIONER

AND

1. Union of India rep.by its Chief Post Master General, Abids, Hyderabad
and 4 others.

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

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Aggrieved by the order of the Central Administrative Tribunal,
in O.A.No.479 of 2002 dated 23-08-2002, wherein the petitioner's
request for being considered for compassionate appointment was
rejected, the present writ petition is filed.

The petitioner herein had filed an application in O.A.No.479 of

2002 to declare the proceedings of the Assistant Director dated 21-12-2001, rejecting the petitioner-applicant's request for compassionate appointment, as arbitrary and illegal. The petitioner-applicant contended that she is the unmarried daughter of late V.Mohan Rao, Senior Post Master, who died while in service in Tadepalligudem Division, that her brother had also expired soon thereafter and that the application made by her, requesting for appointment on compassionate grounds on the ground that she was unemployed and unmarried, was not favourably considered. She also stated that the terminal benefits due to her father were not paid due to *inter se* family disputes and that the liabilities which accrued to her family consequent to the demise of her father was around Rs.1,78 lakhs. The representation of the petitioner was forwarded to the Chief Postmaster General, Hyderabad, and her request was rejected by the Superintendent of Post Offices, Tadepalligudem. Aggrieved thereby she had earlier filed O.A.No.521 of 2001 and the Tribunal, by order dated 31-08-2001, had directed the respondents to make an enquiry and dispose of the appeal preferred by the applicant assigning reasons. Pursuant thereto the impugned order dated 21-12-2001 was passed rejecting the claim of the petitioner-applicant for compassionate appointment. According to the petitioner-applicant mere receipt of terminal benefits of Rs.1,90,000/-, which was far less than the liabilities which had accrued to the family consequent on the demise of her father, would

not remove her from the category of indigent persons. The Tribunal held that the committee, constituted for the purpose of considering the offer of appointment on compassionate grounds had to satisfy itself not only about the existence of indigent circumstances but also the percentage of direct recruitment quota to make such appointments, that the case of the petitioner-applicant could not be recommended and that there was no likelihood of her absorption within one year under the 5% direct recruitment vacancies. The Tribunal held that since compassionate appointment was not a matter of right, the Circle Selection Committee had considered the financial condition of the family and had expressed their inability to issue her with an offer of compassionate appointment, that there was no *mala fide* intention on their part and, since the departmental instructions required compassionate appointment to be restricted to a maximum of 5% of the direct recruitment quota during the year and as the respondent did not find such a possibility even as on the date of issue of the impugned order, dated 21-12-2001, there were no merits in the application. The OA filed by the petitioner-applicant was dismissed.

In its proceedings dated 21-12-2001, the office of the Chief Postmaster General, Hyderabad, referred to the guidelines issued by the department of Personnel and Training, for considering cases for compassionate appointment. The main conditions are that the

family of the deceased should be in dire need and in financial crisis. Further, a Statutory Committee is constituted in this regard which is required to satisfy itself that the candidate, approved for compassionate appointment, is absorbed within one year of the approval, that too, within 5% of the Direct Recruitment Quota of the respective cadre for which the candidate is proposed to be appointed on compassionate grounds. The Assistant Director in the office of Chief Postmaster General, vide proceedings dated 21-12-2001, observed that since the committee was to satisfy itself not only about the existence of indigent circumstances but also about the feasibility of the absorption of candidates within the 5% Direct Recruitment Quota within one year, the case of the petitioner-applicant could not be recommended as there was no feasibility for her absorption within one year and that there was no likelihood of her absorption within one year under the 5% Direct Recruitment Vacancies even as on date and as such her case could not be recommended. It is also stated that the petitioner-applicant received about Rs.1.90 lakhs cash without any liabilities beyond Rs.20,000/-, which also made it difficult for the Circle Relaxation Committee to categorize her as indigently placed. It is also stated that in the social milieu, her kith and kin had certain obligations and that the Circle Relaxation Committee could not recommend her case for appointment in relaxation of the recruitment rules.

Sri G.V.Shivaji, learned counsel for the petitioner, would

contend that a sum of Rs.1,90 lakhs paid towards terminal benefits of the petitioner's father was required to be apportioned among three sisters and as such each of them were entitled to a little more than Rs.60,000/- in total. Learned counsel submits that Rs.60,000/- would hardly suffice for the petitioner to survive for a little more than a year and mere payment of terminal benefits on the death of an employee, more so, an employee who died while in service, cannot be considered as removing his dependents from the category of indigent persons. According to the learned counsel, if such payment of terminal benefits necessitated the dependent being removed from the category of indigent persons, then no dependent of a deceased employee would be entitled to compassionate appointment since terminal benefits would be paid on the retirement or death of every employee. Learned counsel would submit that, except for a vague observation that there was no likelihood of the petitioner being absorbed within one year in the 5% Direct Recruitment Quota, no details are furnished as to what were the number of vacancies available under the direct recruitment quota, what constituted 5% thereof and the number of cases of compassionate appointment considered within this limit of 5% in the year.

We find considerable force in this submission. While compassionate appointments are, no doubt, required to be made

only in accordance with the guidelines issued in this regard and it is not for this Court to issue a mandamus to the authorities to make such appointment, it cannot also be lost sight of that the authorities concerned are required to consider the case of the dependents of the deceased employee, for compassionate appointments, strictly in accordance with the guidelines issued in this regard. The case of the petitioner-applicant, seeking compassionate appointment, cannot be dealt with in such a casual manner. The authorities are bound to give details as to why, even after consideration of such an employee, he or she is not entitled to be appointed under the rules/guidelines governing compassionate appointment. The order of the Tribunal, holding that the impugned order dated 21-12-2001 is a reasoned order, does not merit acceptance and is accordingly set aside. The Assistant Director, in his proceeding dated 21-12-2001, has not dealt with any of the aforesaid contentions urged before us on behalf of the petitioner.

We, therefore, consider it appropriate, while setting aside the impugned order dated 21-12-2001, to direct the Circle Relaxation Committee to consider the case of the petitioner afresh, in accordance with law, within a period of three months from the date of receipt of a copy of this order. The circle relaxation committee shall, in accordance with the above referred guidelines, consider whether receipt of a portion of the terminal benefits by the petitioner would disentitle her from being reckoned as an indigent person. The

Committee shall call for the relevant records to examine the Direct recruitment vacancies and the number of posts which would constitute 5% thereof and the number of compassionate appointments made in this 5% quota and how those appointed on compassionate grounds deserved to be appointed in preference to the petitioner herein. The circle relaxation committee shall examine all these aspects, pass a reasoned order and communicate the same to the petitioner herein.

The writ petition is disposed of accordingly. However, in the circumstances, without costs.

B.PRAKASH RAO, J

RAMESH RANGANATHAN, J

08th December, 2006

SKM